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SENATE BILL 743 By
Dixon

HOUSE BILL 1007
By DeBerry J

AN ACT to amend Tennessee Code Annotated, Title 29, Chapter 20, relative to governmental tort liability.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 29-20-403, is amended by adding the following new subdivisions to subsection (b):

(3)(A) The provisions of this subdivision shall apply to any action arising on or after July 1, 2003, but prior to July 1, 2004.

(B) Minimum limits of not less than one hundred eighty-five thousand dollars (\$185,000) for bodily injury or death of any one (1) person in any one (1) accident, occurrence or act and not less than five hundred thousand dollars (\$500,000) for bodily injury or death of all persons in any one (1) accident, occurrence or act; and

(C) Minimum limits of not less than one hundred fifty thousand dollars (\$150,000), except as provided otherwise in this section, for injury to or destruction of property of others in any one (1) accident.

(4)(A) The provisions of this subdivision shall apply to any action arising on or after July 1, 2004, but prior to July 1, 2005.

(B) Minimum limits of not less than two hundred fifty thousand dollars (\$250,000) for bodily injury or death of any one (1) person in any one (1) accident, occurrence or act and not less than seven hundred fifty thousand dollars (\$750,000) for bodily injury or death of all persons in any one (1) accident, occurrence or act; and

(C) Minimum limits of not less than three hundred thousand dollars (\$300,000), except as provided otherwise in this section, for injury to or destruction of property of others in any one (1) accident.

(5)(A) The provisions of this subdivision shall apply to any action arising on or after July 1, 2005, but prior to July 1, 2006.

(B) Minimum limits of not less than three hundred thousand dollars (\$300,000) for bodily injury or death of any one (1) person in any one (1) accident, occurrence or act and not less than one million dollars (\$1,000,000) for bodily injury or death of all persons in any one (1) accident, occurrence or act; and

(C) Minimum limits of not less than five hundred thousand dollars (\$500,000), except as provided otherwise in this section, for injury to or destruction of property of others in any one (1) accident.

(6)(A) On July 1, 2006, the minimum limits of insurance shall be increased to reflect the percentage of change in the average consumer price index (all items—city average) as published by the United States department of labor, bureau of labor statistics, between calendar year 2004 and calendar year 2005. Each succeeding July 1, a similar adjustment shall be made upon the percentage of change in the consumer price index between the two (2) successive calendar years preceding July 1, of the year in which the adjustment is made.

(B) The adjustment required by this subdivision shall be announced by the state treasurer and distributed to all governmental entities covered by the provisions of this chapter. The treasurer shall review the liability limits established by this subsection and,

at least every five (5) years, shall report to the general assembly concerning the adequacy of such limits.

(7) All governmental entities covered by the provisions of this chapter shall report its losses and premiums to the state treasurer on an annual basis beginning with fiscal year 2002. All governmental entities shall have six (6) months from the end of each fiscal year to report such losses and premiums.

SECTION 2. Tennessee Code Annotated, Title 29, Chapter 20, Part 4, is amended by adding the following as new sections:

Section 29-20-408.

(a) By January 1, 2005 the state treasurer shall develop and implement an "Excess Coverage Fund" proposal with premium costs for the following limits:

(1) For any action arising on or after January 1, 2006 but prior to January 1, 2007, minimum limits of not less than one million dollars (\$1,000,000) for bodily injury or death of any one (1) person in any one (1) accident, occurrence or act and not less than five million dollars (\$5,000,000) for bodily injury or death of all persons in any one (1) accident, occurrence or act;

(2) For any action arising on or after January 1, 2007, but prior to July 1, 2008, minimum limits of not less than two million dollars (\$2,000,000) for bodily injury or death of any one (1) person in any one (1) accident, occurrence or act and not less than seven million five hundred thousand dollars (\$7,500,000) for bodily injury or death of all persons in any one (1) accident, occurrence or act;

(3) For any action arising on or after January 1, 2008, but prior to January 1, 2009, minimum limits of not less than three million dollars (\$3,000,000) for bodily injury or death of any one (1) person in any one (1) accident, occurrence or act and not less than ten million dollars (\$10,000,000) for bodily injury or death of all persons in any one (1) accident, occurrence or act; and

(4) On July 1, 2009, the minimum limits shall be increased to reflect the percentage of change in the average consumer price index (all items—city average) as published by the United States department of labor, bureau of labor statistics, between calendar year 2007 and calendar year 2008. Each succeeding July 1, a similar adjustment shall be made upon the percentage of change in the consumer price index between the two (2) successive calendar years preceding July 1, of the year in which the adjustment is made.

(5) The adjustment required by this subdivision shall be announced by the state treasurer and distributed to all governmental entities covered by the provisions of this chapter. The treasurer shall review the minimum limits established by this subsection and, at least every five (5) years, shall report to the general assembly concerning the adequacy of such limits.

(b) In order for a governmental entity to have the benefit of the liability limits provided by this section, all governmental entities must participate in the “Excess Coverage Fund”.

(c) For all claims made after January 1, 2006, the governmental entity shall be responsible for payment of claims up to the limits set out in § 29-20-403(b)(3)—(b)(6). Any liability in excess of such limits shall be paid by the “Excess Coverage Fund”.

Section 29-20-409. If a governmental entity voluntarily purchases higher limits of liability insurance for such entity than is provided in § 29-20-403, the purchase of such higher limits constitutes a waiver of the entity's right to claim the limits set out in § 29-20-403.

Section 29-20-410. Nothing in this chapter shall be construed to prohibit or limit a governmental entity from voluntarily reaching an agreement to compensate a plaintiff in an amount that exceeds the liability limits established in § 29-20-403.

SECTION 3. This act shall take effect upon becoming a law, the public welfare requiring it.

